

Agricultural Marketing Service, USDA

§ 97.19

though all of the original owners had joined in an application.

§ 97.15 Assigned varieties and certificates.

In case the whole or a part interest in a variety is assigned, the application shall be made by the owner or one of the persons identified in § 97.13. However, the certificate may be issued to the assignee, or jointly to the owner and the assignee, when a part interest in a variety is assigned.

[58 FR 42435, Aug. 9, 1993, as amended at 60 FR 17189, Apr. 4, 1995]

§ 97.16 Amendment by applicant.

An application may be amended before or after the first examination and action by the Office, after the second or subsequent examination or reconsideration as specified in § 97.107, or when and as specifically required by the examiner. Such amendment may include a specification that seed of the variety be sold by variety name only as a class of certified seed, if not previously specified or if previously declined. Once an affirmative specification is made, no amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name, only as a class of certified seed.

§ 97.17 Papers of completed application to be retained.

The papers submitted with a completed application shall be retained by the Office except as provided in § 97.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

§ 97.18 Applications handled in confidence.

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application. Also, nor will access be given to or copies furnished of any pending application or papers relating thereto, without writ-

ten authority of the applicant, or his or her assignee or attorney or agent. Exceptions to the above may be made by the Commissioner in accordance with 5 U.S.C. 552 and § 1.4 of this title, and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress, or as provided in sections 56 or 57 of the Act and § 97.19.

(b) Abandoned applications shall not be open to public inspection. However, if an abandoned application is directly referred to in an issued certificate and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified directly or through the attorney or agent of record, and a time, not less than 30 days, shall be set for presenting objections.

§ 97.19 Publication of pending applications.

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show:

(a) Application number and date of filing;

(b) The name of the variety or temporary designation;

(c) The name of the kind of seed; and

(d) Whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations that it can be certified.

Additional information, such as the name and address of the applicant or a brief description of the distinctive features of the variety, may be published only upon request or approval received